

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

STATE EX REL. PATRICK MORRISEY,
ATTORNEY GENERAL OF THE STATE
OF WEST VIRGINIA

Plaintiff,

v.

Civil Action No: 1:13-02677

NATIONWIDE AFFINITY INSURANCE
COMPANY OF AMERICA, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is plaintiff's motion to remand case to Circuit Court of McDowell County and for costs (Doc. No. 12). Initially, defendants opposed remand and requested a stay pending the outcome of a Supreme Court decision which would likely be dispositive of plaintiff's motion. See Doc. Nos. 18 and 26. The Supreme Court issued its opinion in Mississippi ex rel. Hood v. AU Optronics Corp., 134 S. Ct. 736 (2014) on January 14, 2014, holding that a suit filed by the State of Mississippi as the sole plaintiff was not removable as a "mass action" under the Class Action Fairness Act even though there were 100 or more unnamed individuals who were the real parties in interest as beneficiaries to the state's claims. In light of

this dispositive Supreme Court decision, plaintiff filed a supplemental memorandum in support of the motion to remand (Doc. No. 36), and defendants withdrew their opposition to remand (Doc. No. 37).

Pursuant to Mississippi ex rel. Hood, this case does not constitute a "mass action" under the Class Action Fairness Act. This court lacks subject matter jurisdiction. As such, plaintiff's motion to remand is GRANTED, and the court REMANDS this case to the Circuit Court of McDowell County, West Virginia. Plaintiff's motion for costs is DENIED.

The Clerk is directed to send a certified copy of this Memorandum Opinion and Order to all counsel of record and the Clerk of the Circuit Court of McDowell County, West Virginia.

IT IS SO ORDERED this 18th day of March, 2014.

Enter:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge